

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PATSY HORTON, on behalf of herself)	
and all those similarly situated who)	
consent to representation,)	Civil Action Number:
)	3:14-cv-00009-TCB
)	
Plaintiffs,)	
)	
v.)	
)	
THEODORAKIS DINER GROUP, LLC,)	
D/B/A BROADWAY DINER, a Georgia)	
Corporation, STEVE THEODORAKIS,)	
and PAM THEODORAKIS, individuals,)	
)	
Defendants.)	

**JOINT MOTION FOR REVIEW AND APPROVAL OF
SETTLEMENT AND RELEASE AGREEMENTS AND TO ADD
ANGELA MESSMAN AS A PLAINTIFF FOR SETTLEMENT
PURPOSES**

Plaintiff Patsy Horton (“Plaintiff”) and Defendants Theodorakis Diner Group, LLC d/b/a Broadway Diner, Steve Theodorakis and Pam Theodorakis (“Defendants”), by and through their undersigned counsel, move this Court for an Order: (1) adding Angela Messman (“Messman”) as a Named Plaintiff for Settlement Purposes; and (2) to review and approve the Settlement Agreements and Release of Claims between Defendants and Plaintiff and Messman, respectively. As grounds for this Motion, the Parties show the Court as follows:

1.

Plaintiff filed her Complaint (Docket Entry No. 1) on January 25, 2014, alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. 201, *et seq.*

2.

Based upon the understandings and assessments of each Party and Messman, the Parties and Messman, acting at arms-length and in good faith and with the advice of counsel and assistance of Magistrate Judge Russell Vineyard, have negotiated and entered into Confidential Settlement Agreement and General Releases (hereafter “the Agreements”).

3.

The Parties represent that the terms set forth in the Agreement represent a compromise between the positions of the Parties and that the amounts of money allotted to back pay are fair approximations of Plaintiff and Messman’s potential recovery if they prevailed at trial.

4.

Pursuant to *Lynn’s Food Stores, Inc. v. United States of Am.*, 679 F.2d 1350, 1353 (11th Cir. 1982), judicial approval is required to give effect to Plaintiff and Messman’s releases of their FLSA claims, which are material to the Agreement.

5.

Within ten days of final payment of the settlement, the Parties will file a Stipulation of Dismissal of this case with prejudice.

6.

Because the Parties and Messman have agreed to keep the terms of the Agreement confidential, the Parties will submit a copy of the Agreements directly to chambers for the Court's consideration, along with a courtesy copy of this Motion.

7.

The Parties further request that the Court retain jurisdiction over this matter until all payments have been made as set forth in Paragraph 2 of the Settlement Agreements and incorporate the Agreements into its order granting this Motion.

WHEREFORE, the Parties respectfully request that this Court add Messman as a Plaintiff for settlement purposes and review and approve their Settlement Agreements and Releases. For the Court's convenience, a proposed Order granting this Motion is attached hereto as Attachment "A."

Respectfully submitted this 3rd day of July, 2014.

/s/Kimberly N. Martin
Counsel for Plaintiffs
Kimberly N. Martin

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CERTIFICATE OF COUNSEL

Pursuant to Local Rule 7.1 for the Northern District of Georgia, the undersigned counsel certifies that the within and foregoing motion was prepared using Times New Roman (14 point), one of the fonts and point selections approved by this Court in Local Rule 5.1(c).

/s/ Eric R. Magnus
Eric R. Magnus
Georgia Bar No. 801405
Counsel for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2014, I electronically filed the within and foregoing **JOINT MOTION FOR REVIEW AND APPROVAL OF SETTLEMENT AND RELEASE AGREEMENTS AND TO ADD ANGELA MESSMAN AS A PLAINTIFF FOR SETTLEMENT PURPOSES** using the CM/ECF system, which will automatically send email notification of such filing to all counsel of record.

/s/Kimberly N. Martin
Georgia Bar No. 473410
Counsel for Plaintiffs

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**ORDER ADDING ANGELA MESSMAN AS
PLAINTIFF FOR SETTLEMENT PURPOSES AND
APPROVING SETTLEMENT AGREEMENTS**

The above-captioned case is before the Court for consideration of the parties’ Joint Motion for Review and Approval of Settlement and Release Agreements and to Add Angela Messman as a Plaintiff for Settlement Purposes. The Court has considered and reviewed the proposed settlement agreements in this case and has determined that they are fair and equitable in all respects. Accordingly, the Court hereby **GRANTS** the parties’ Joint Motion, **APPROVES** the settlement agreements entered into by the parties,

and **ORDERS** the parties to file a Notice of Dismissal With Prejudice within ten days of the final payment. Except as stated in the settlement agreements, each party shall bear its own costs of litigation and attorney's fees.

SO ORDERED this ____ day of _____, 2014.

TIMOTHY C. BATTEN
UNITED STATES DISTRICT JUDGE